

Federal Emergency Management Agency, DHS

§ 5.6

§ 5.2 Application.

This part applies to all records and information materials generated, developed, or held by FEMA at Headquarters, in Regions, or in the field, or any component thereof.

§ 5.3 Definitions.

For purposes of this part, the following terms have the meanings ascribed to them in this section:

(a) *Records*. *Records* means all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics made or received by FEMA in pursuance of Federal Law or in connection with the transaction of public business and preserved, or appropriate for preservation, as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of FEMA or because of the information value of data contained therein. The term does not include:

(1) Material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents; or

(2) Objects or articles, such as structures, furniture, paintings, sculpture, models, vehicles or equipment; or

(3) Formulae, designs, drawings, research data, computer programs, technical data packages, and the like, which are not considered *records* within the Congressional intent of reference because of development costs, utilization, or value. These items are considered exploitable resources to be utilized in the best interest of *all* the public and are not preserved for informational value nor as evidence of agency functions. Requests for copies of such material shall be evaluated in accordance with policies expressly directed to the appropriate dissemination or use of these resources. Requests to inspect this material to determine its content for informational purposes shall normally be granted, unless inspection is inconsistent with the obligation to protect the property value of the material, as, for example, may be true for patent information and certain formulae, or is inconsistent with another significant and legitimate governmental purpose.

(b) *Reasonably Described*. *Reasonably described*, when applied to a request record, means identifying it to the extent that it will permit the location of the particular document with a reasonable effort.

(c) *Agency*. *Agency*, as defined in section 552(e) of title 5 U.S.C., includes any executive department, military department, government corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(d) *Headquarters FOIA Officer*. The FOIA/Privacy Act Specialist or his/her designee.

(e) *Regional FOIA Officer*. The Regional Director, or his/her designee.

[44 FR 50287, Aug. 27, 1979, as amended at 45 FR 1421, Jan. 7, 1980; 51 FR 34604, Sept. 30, 1986]

§ 5.4 Availability of records.

(a) FEMA records are available to the greatest extent possible in keeping with the spirit and intent of FOIA and will be furnished promptly to any member of the public upon request addressed to the office designated in § 5.26. The person making the request need not have a particular interest in the subject matter, nor must he provide justification for the request.

(b) The requirement of 5 U.S.C. 552 that records be available to the public refers only to records in being at the time the request for them is made. FOIA imposes no obligation to compile a record in response to a request.

§ 5.5 Exemptions.

Requests for FEMA records may be denied if disclosure is exempted under the provisions of 5 U.S.C. 552, as outlined in subpart E. Usually, except when a record is classified, or when disclosure would violate any other Federal statute, the authority to withhold a record from disclosure is permissive rather than mandatory. The authority for nondisclosure will not be invoked unless there is compelling reason to do so.

§ 5.6 Congressional information.

Nothing in this part authorizes withholding information from the Congress